

JCWS/CS 19 J 2004

*Gov*

**PATENT**  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**(Case No. 97,195-P)**

**RECEIVED**

In re Application of:	)	JUL 26 2004
	)	
Burg, et al.	)	CASE OF PETITIONS
	)	
Serial No.: 09/901,181	)	Examiner: TBA
	)	
Filed: July 9, 2001	)	Art Unit: 1656
	)	
For: Nucleic Acid Assays	)	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

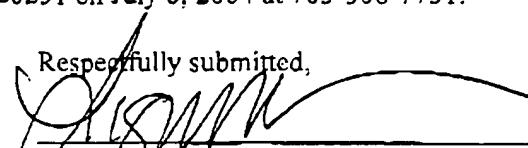
**TRANSMITTAL LETTER**

Dear Sir:

In regard to the above identified application,

1. We are transmitting herewith the attached:
  - a) Petition to Withdrawn the Holding of Abandonment
2. With respect to fees:
  - a)  It is believed that no fee is due at this time.
  - a)  Please charge any underpayment or credit any overpayment our Deposit Account No. 13-2490.
3. CERTIFICATE OF FACSIMILE UNDER 37 CFR § 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described in paragraph 1, are being faxed to the Asst. Commissioner for Patents, Washington, D.C. 20231 on July 6, 2004 at 703-308-7751.

Date: July 6, 2004

Respectfully submitted,  
  
Lisa M.W. Hillman, Ph.D  
Reg. No. 43,673

*BEST AVAILABLE COPY*

## PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Case No. 97,195-P)

In re Application of: ) RECEIVED  
Burg, et al. ) JUL 26 2004  
Serial No.: 09/901,181 ) Examiner: TBA OFFICE OF PETITIONS  
Filed: July 9, 2001 ) Art Unit: 1656  
For: Nucleic Acid Assays )

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

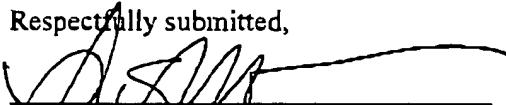
Applicants respectfully petition to withdraw the holding of abandonment issued in the above-mentioned application on June 1, 2004 for failure to reply to the Notice of Missing Parts mailed on August 6, 2001. It is believed that no fee is due in connection with this filing; however, if a fee is due the Commissioner is authorized to charge our deposit account number 13-4950.

A complete, timely reply to the Notice to File Missing Parts issued on August 6, 2001 was filed with the USPTO on September 10, 2001. A true copy of the originally filed reply is attached. Also attached is a copy of a properly itemized date-stamped postcard receipt. Additionally, the original reply contained a certificate of mailing in compliance with 37 CFR 1.8(a). See point number 4 of Transmittal letter dated Sept. 10, 2001. The undersigned signed the certificate of mailing on September 10, 2001 and attests, based on personal knowledge, that the response was indeed timely mailed on September 10, 2001.

Applicants respectfully request the withdrawal of the holding of abandonment issued in this application on June 6, 2001.

Respectfully submitted,

Date: July 6, 2004

  
Lisa M.W. Hallinan, Ph.D  
Registration No. 43,673



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY, DOCKET NO./TITLE
09/901,181	07/09/2001	REU Lawrence Burg	97,195-P

JUL 26 2004

CONFIRMATION NO. 6516

ABANDONMENT/TERMINATION

20306

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP  
 300 S. WACKER DRIVE  
 32ND FLOOR  
 CHICAGO, IL 60606

OFFICE OF PETITIONS LETTER

\*OC000000012825921\*

Date Mailed: 06/01/2004

## NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 08/06/2001.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

## Notice of Abandonment

This application is abandoned in view of applicant's failure to timely file a proper reply to the Office notice mailed on 6-1-04.

### Petition to Withdraw the Holding of Abandonment

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item(s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);
2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP § 512); or
3. If the reply was filed via Express Mail, a submission satisfying the requirements of 37 CFR 1.10(e), including, for example, a copy of the Express Mail mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be transmitted by facsimile directly to OIPE Customer Service at (703) 308-7751.

### Petition to Revive an Abandoned Application

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of UNAVOIDABLE DELAY must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by:

1. an adequate showing of the cause of unavoidable delay;
2. the required reply to the above-identified notice;
3. the petition fee set forth in 37 CFR 1.17(i); and
4. a terminal disclaimer if required by 37 CFR 1.137(d).

See MPEP § 711.03(c) and Form PTO/SB/61.

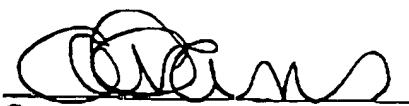
Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of UNINTENTIONAL DELAY must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by:

1. a statement that the entire delay was unintentional;
2. the required reply to the above-identified notice;
3. the petition fee set forth in 37 CFR 1.17(m); and
4. a terminal disclaimer if required by 37 CFR 1.137(d).

See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to Office of Petitions at (703) 305-9282.

Any questions regarding this notice should be directed to OIPE Customer Service at (703) 308-1202.



Customer Service Center

Initial Patent Examination Division (703) 308-1202

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**(Case No. 97,195-P)**

In re Application of: )  
Burg, et al. )  
Serial No.: 09/901,181 ) Examiner: TBA  
Filed: July 9, 2001 ) Art Unit: 1656  
For: Improved Nucleic Acid Assays )

**TRANSMITTAL LETTER**

Asst. Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In regard to the above identified application,

1. We are transmitting herewith the attached:
  - a) Amendment and Response to Notice to File Missing Parts;
  - b) Drawings (30 sheets);
  - c) Request for Corrected Filing Receipt;
  - d) Return postcard
2. With respect to fees:

No fee is required at this time.
3. GENERAL AUTHORIZATION: Please charge any additional fees or credit overpayment to Deposit Account No. 13-2490. A duplicate copy of this sheet is enclosed.
4. CERTIFICATE OF MAILING UNDER 37 CFR § 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described in paragraph 1, are being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Asst. Commissioner for Patents, Washington, D.C. 20231 on September 10, 2001.

Respectfully submitted,

Lisa M.W. Hillman  
Registration No. 43.673

Registration No. 43,673

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of: )  
Burg et al. ) Group Art Unit: 1656  
Serial No: 09/901,181 ) Examiner: TBA  
Filed: July 9, 2001 ) Atty Docket No.: 97-195P  
For: Improved Nucleic Acid Assays )  
)  
)

---

**AMENDMENT AND RESPONSE TO NOTICE TO FILE MISSING PARTS**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

This paper is filed in response to the Notice to File Missing Parts mailed on August 6, 2001. It is believed that no fee is due in connection with this filing. However, if a fee is due the Commissioner is authorized to charge our Deposit Account No. 13-2490. Please enter the following amendment:

**IN THE SPECIFICATION:**

Please amend the first paragraph of the application to read:

This is a continuation of application U.S. Ser. No. 09/245,939, filed Feb. 5, 1999, which is a divisional application of U.S. Serial No. 08/850,171, filed May 2, 1997, now abandoned.

### Remarks

The specification has been amended to provide reference to related applications.

No new matter has been added by this amendment. A marked-up version of the paragraph appears in Appendix A.

### Sequence Rules Compliance

The Office has objected to the specification as not complying with the sequence listing rules. Applicants traverse this objection and respectfully submit that the rejection is improper. A sequence listing is not required for the following reasons:

1. No claims are presented directed to nucleic acid sequences; and
2. 37CFR 1.821 - 1.825 as amended and published as Final Rules in the Official Gazette, February 20, 2001, vol. 1243/No.3/Book 1 of 2, pp.241-257 mandate that these sections "are not mandatory" (p.242, right column, last full paragraph) for applications that claim the benefit of a prior application under 35 U.S.C. 120 filed before July 1, 1998, and which do not add subject matter involving a sequence listing subject to 1.821-1.825 (*id.*, left column, Applicability Date).

This application claims priority to and is a continuation application of Ser. No. 09/245,939, filed Feb. 5, 1999, which is a divisional application of Serial No. 08/850,171, filed on May 2, 1997. Therefore, a sequence listing is not required for this application. Applicants respectfully request withdrawal of the requirement.

The Drawings

Substitute Drawing sheets are enclosed. Applicants believe that the Substitute Drawings comply with 37 C.F.R. 1.84.

Respectfully submitted,

Dated: 7/10/01



Lisa M.W. Hillman  
Registration No. 43,673

McDonnell Boehnen Hulbert & Berghoff  
300 South Wacker Drive  
Chicago, Illinois 60606  
Telephone: (312) 913-0001  
Facsimile: (312) 913-0002

**APPENDIX A****Marked-up Version to Show Changes Made to the Specification**

This is a continuation of application U.S. Ser. No. 09/245,939, filed Feb. 5, 1999,  
which is a divisional application of U.S. Serial No. 08/850,171, filed May 2, 1997, now  
abandoned.



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
 UNITED STATES PATENT AND TRADEMARK OFFICE  
 WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/901,181	07/09/2001	J. Lawrence Burg	97,195-P

20306  
 McDONNELL BOEHNEN HULBERT & BERGHOFF  
 300 SOUTH WACKER DRIVE  
 SUITE 3200  
 CHICAGO, IL 60606

CONFIRMATION NO. 6516  
**FORMALITIES LETTER**



\*OC000000006388906\*

Date Mailed: 08/06/2001

## NOTICE TO FILE CORRECTED APPLICATION PAPERS

*Filing Date Granted*

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given TWO MONTHS from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);
  - drawings submitted to the Office are not electronically reproducible. Drawing sheets must be submitted on paper which is flexible, strong, white, smooth, non-shiny, and durable (see 37 CFR 1.84(e));
- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

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*A copy of this notice **MUST** be returned with the reply.*



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Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

# Improved Nucleic Acid Assays

Sir:

Please place the Patent Office receipt stamp hereon and mail to acknowledge receipt of:

Transmittal letter  
 Specification (No. of sheets including claims)  
 Drawings (No. of Sheets) **30**  
 Signed Declaration  
 Trademark appln., drawing and 5 specimens  
 Filing Fee Check  
 Assignment  
 OTHER Amendment and Response to Notice  
to File, Miss. Park + Request for  
Corracted Filing  
Receipt

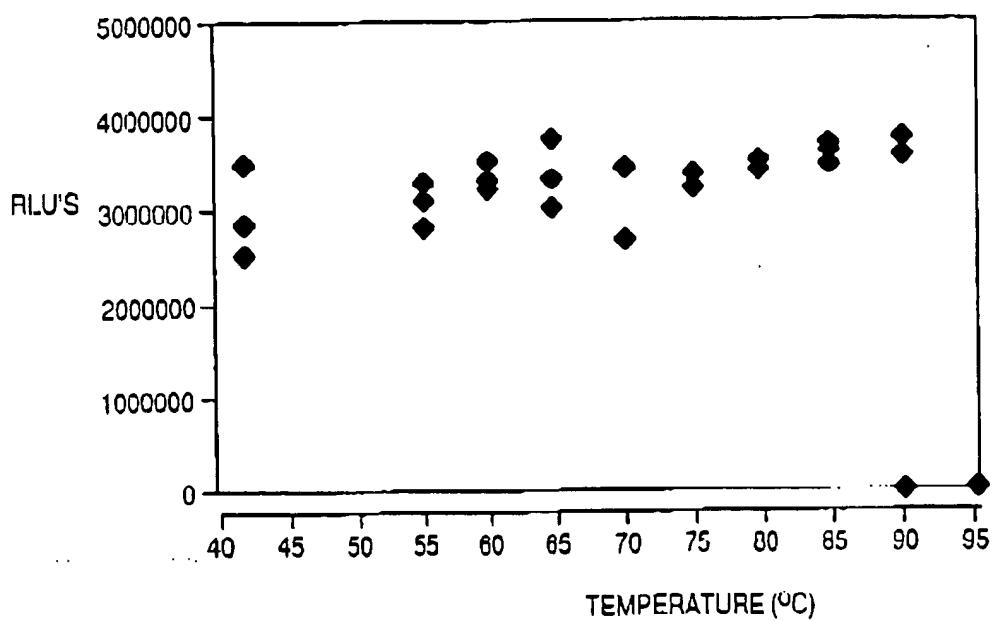
Fee Enclosed

McDonnell Boehnen Hulbert &amp; Berghoff

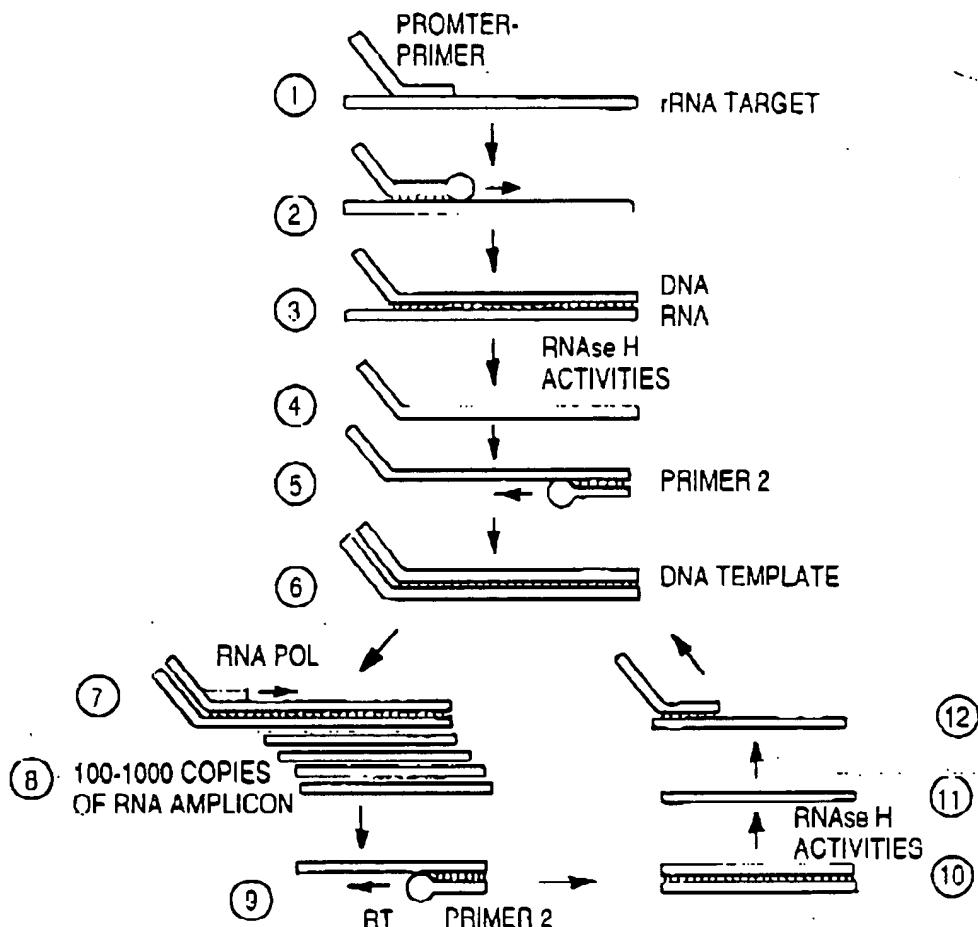
Respectfully,

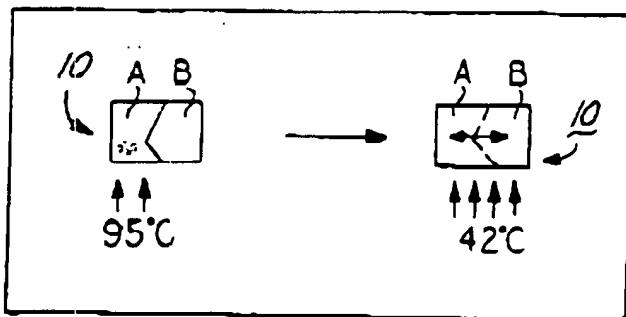
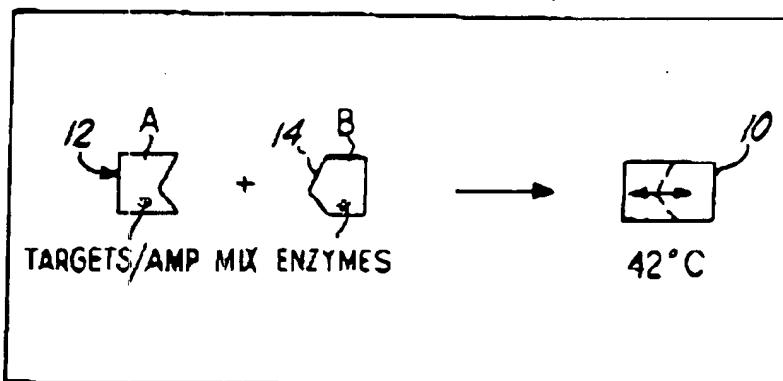
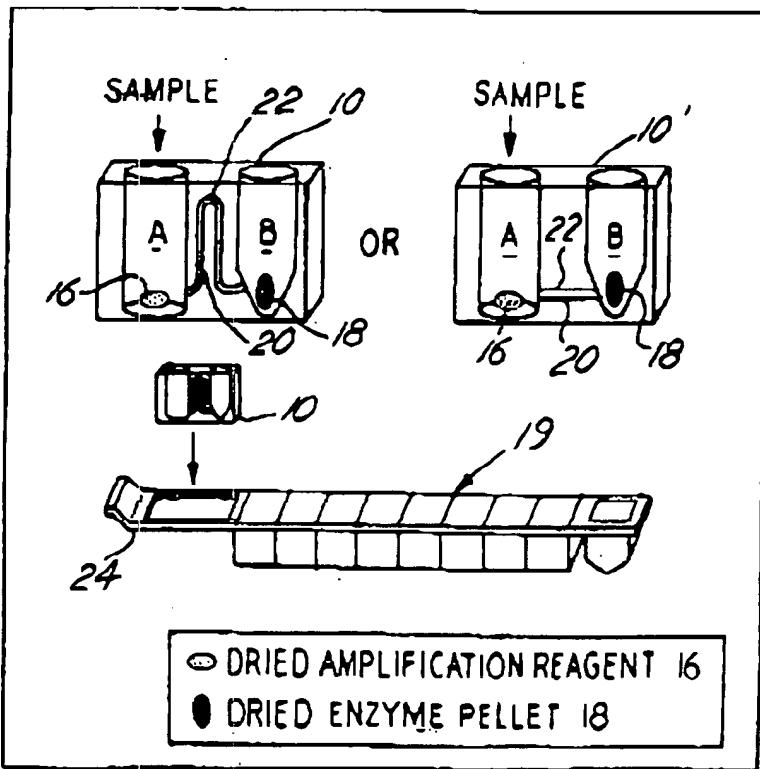
Attorney for Applicant

\$ **—0—****9-10-01**

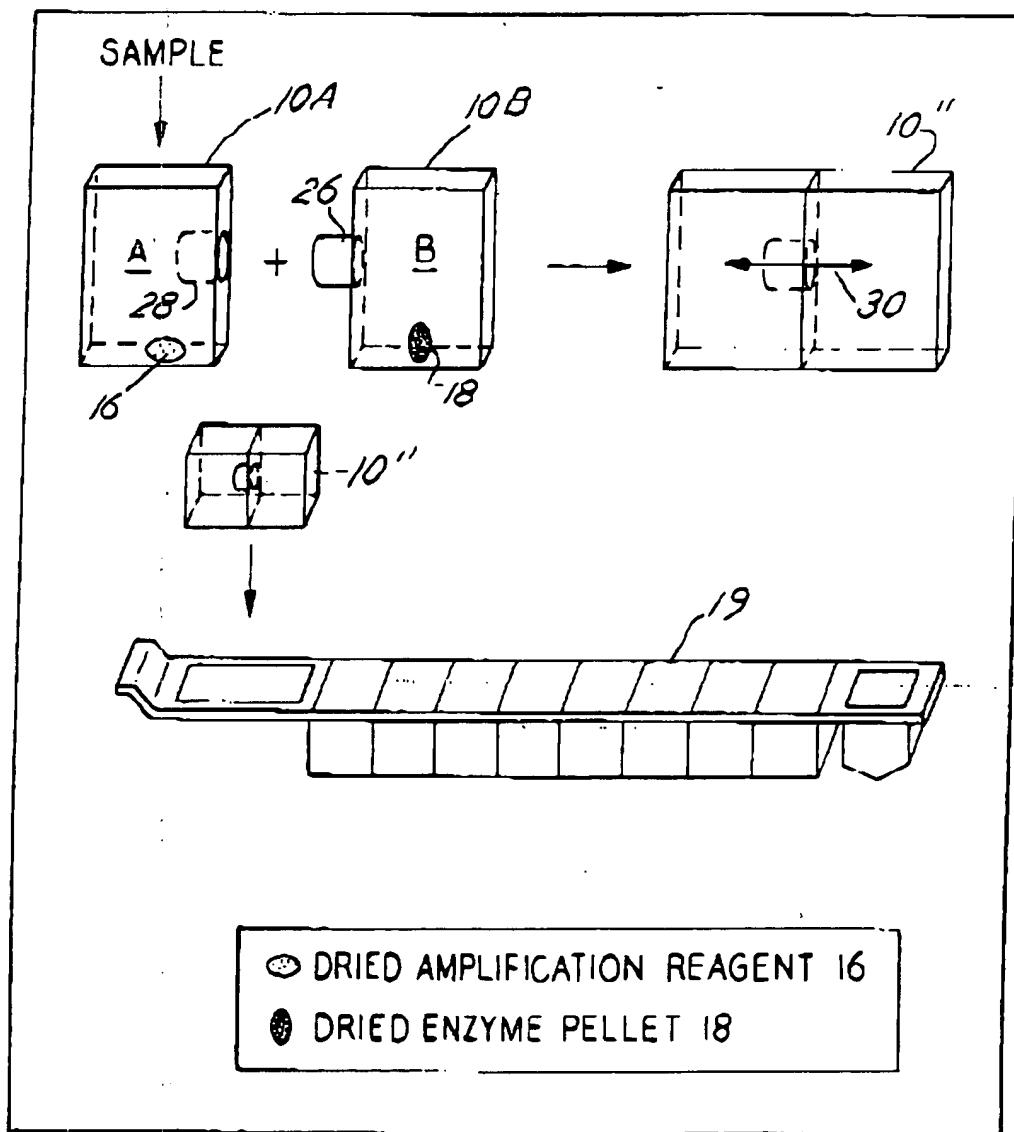
**FIG. 1**

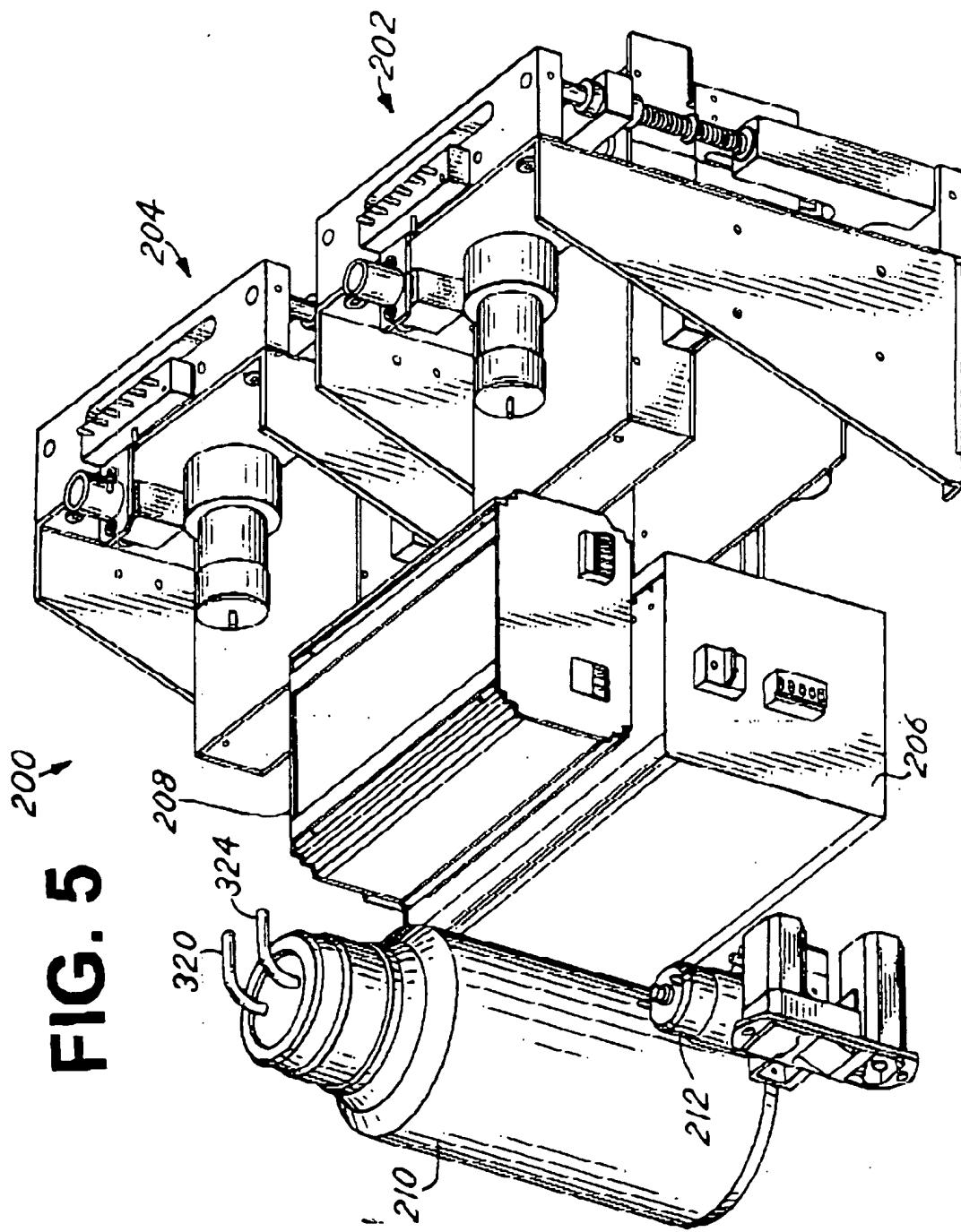
## FIG. 2

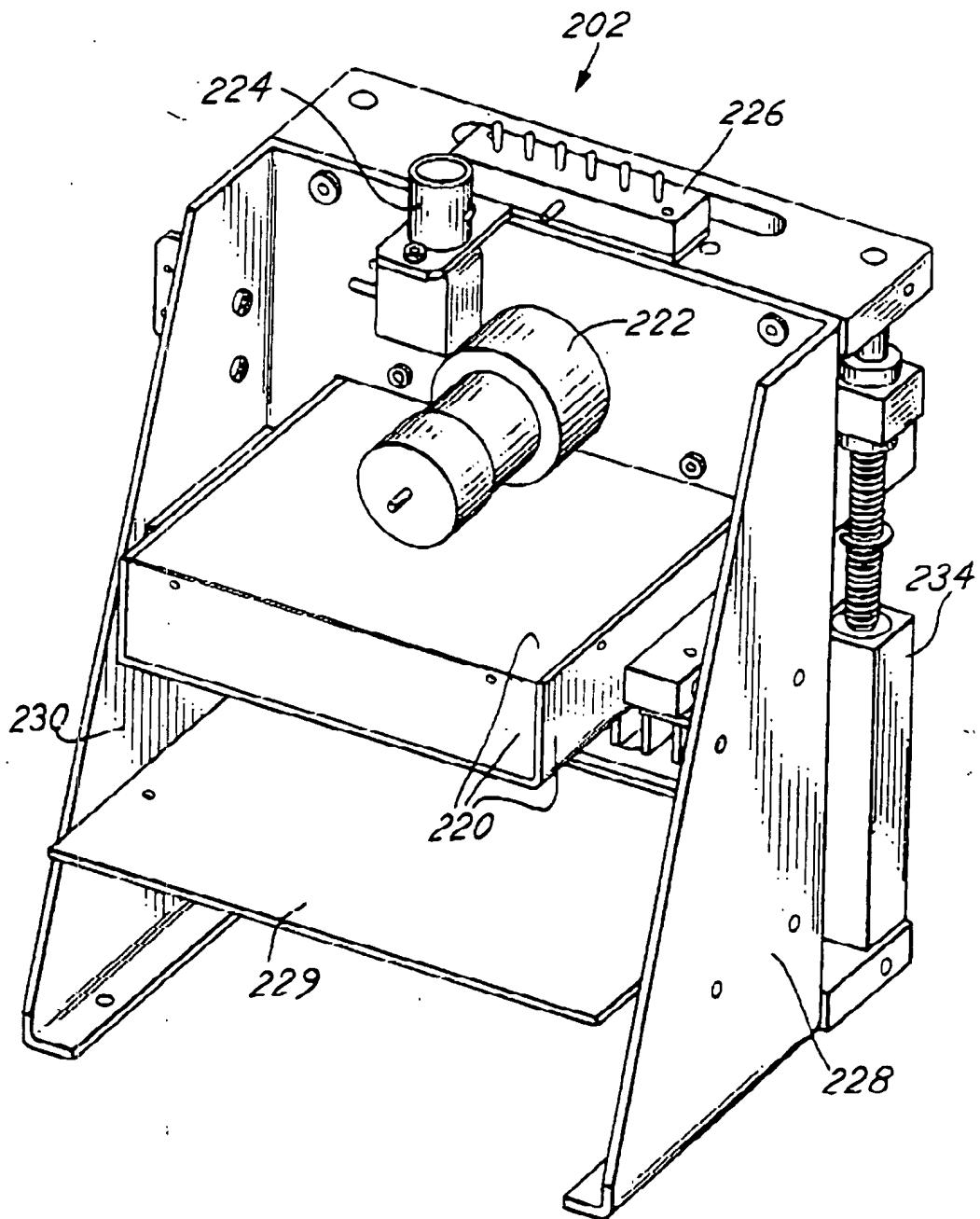


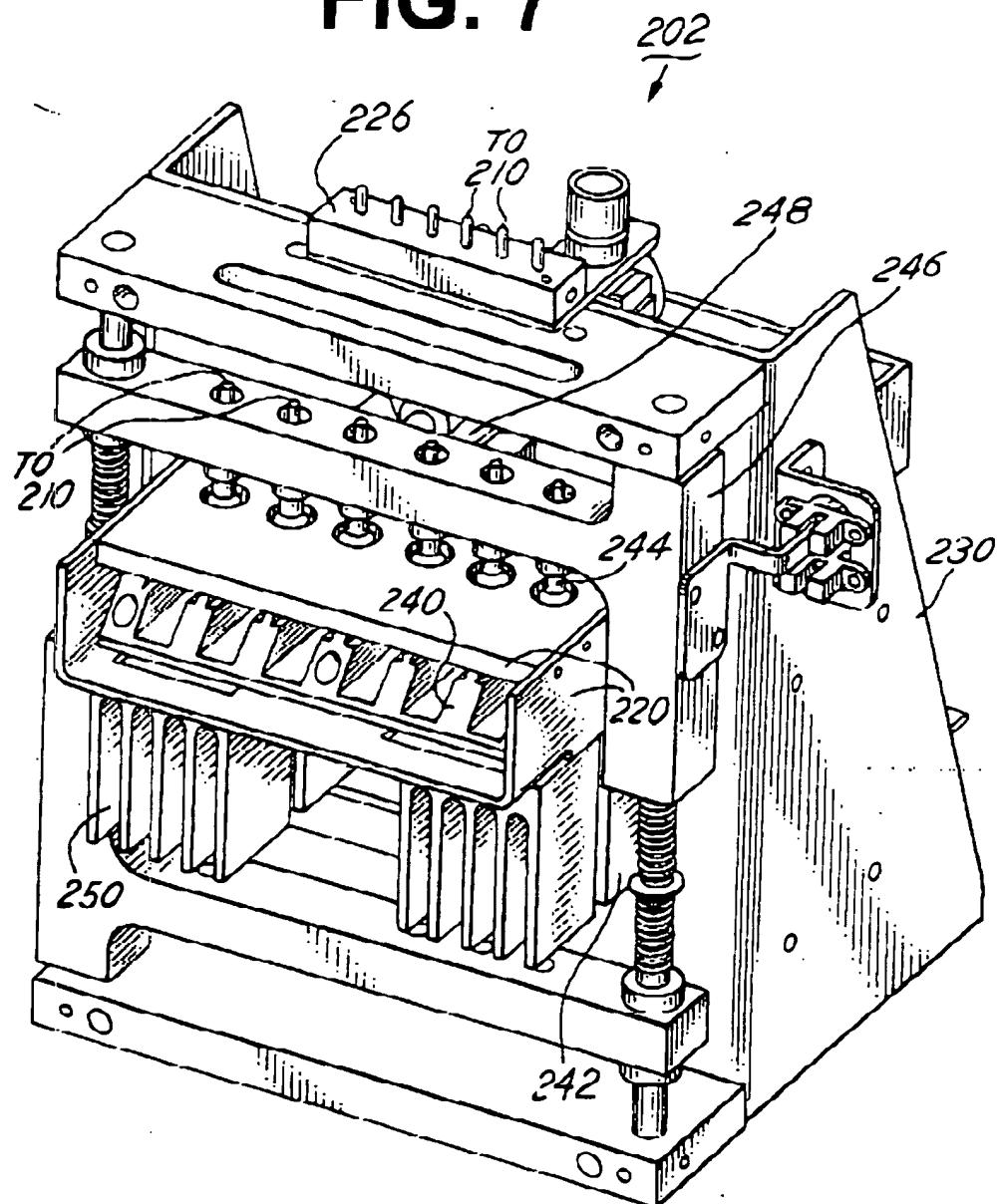
**FIG. 3A****FIG. 3B****FIG. 3C**

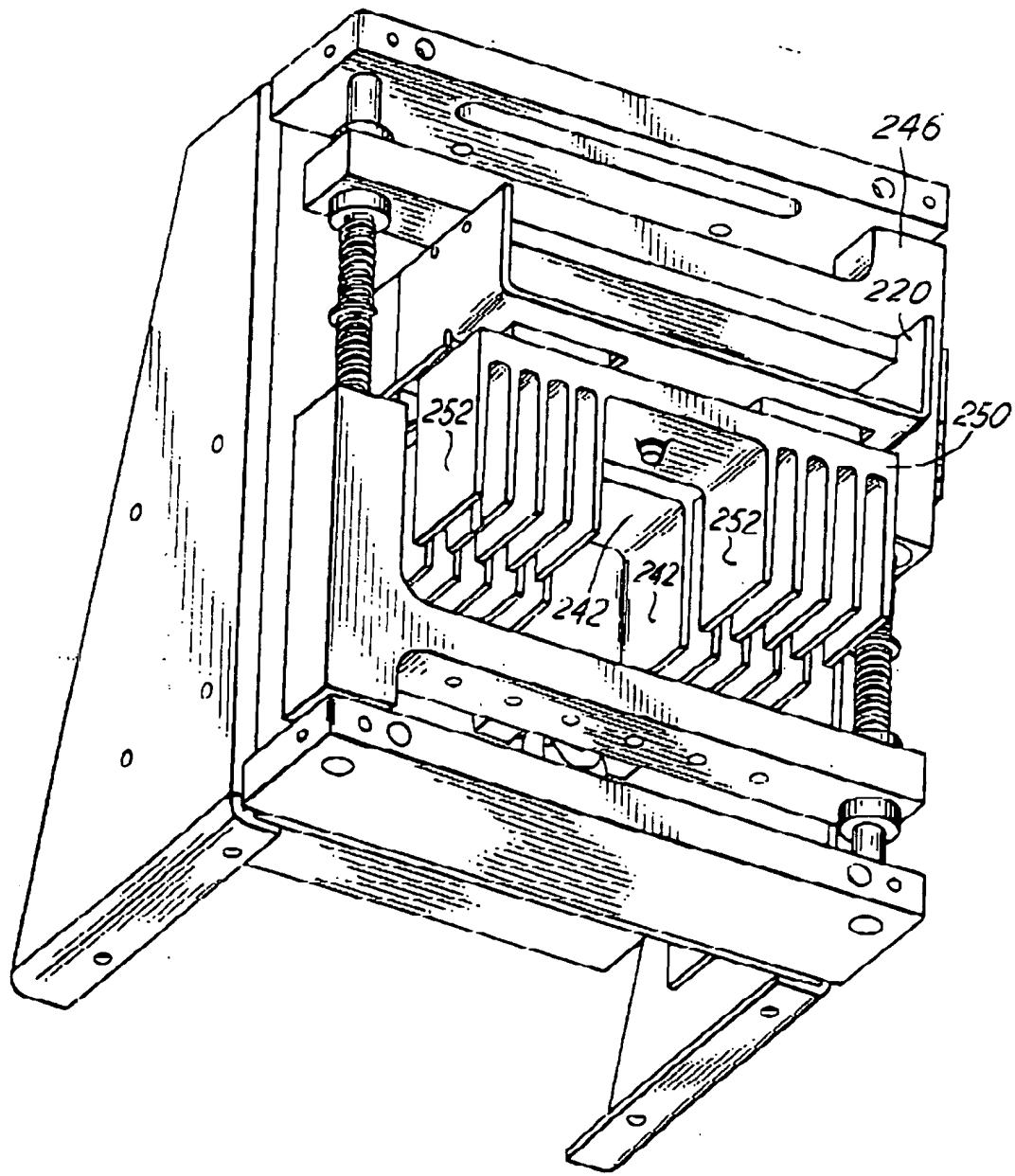
# FIG. 4

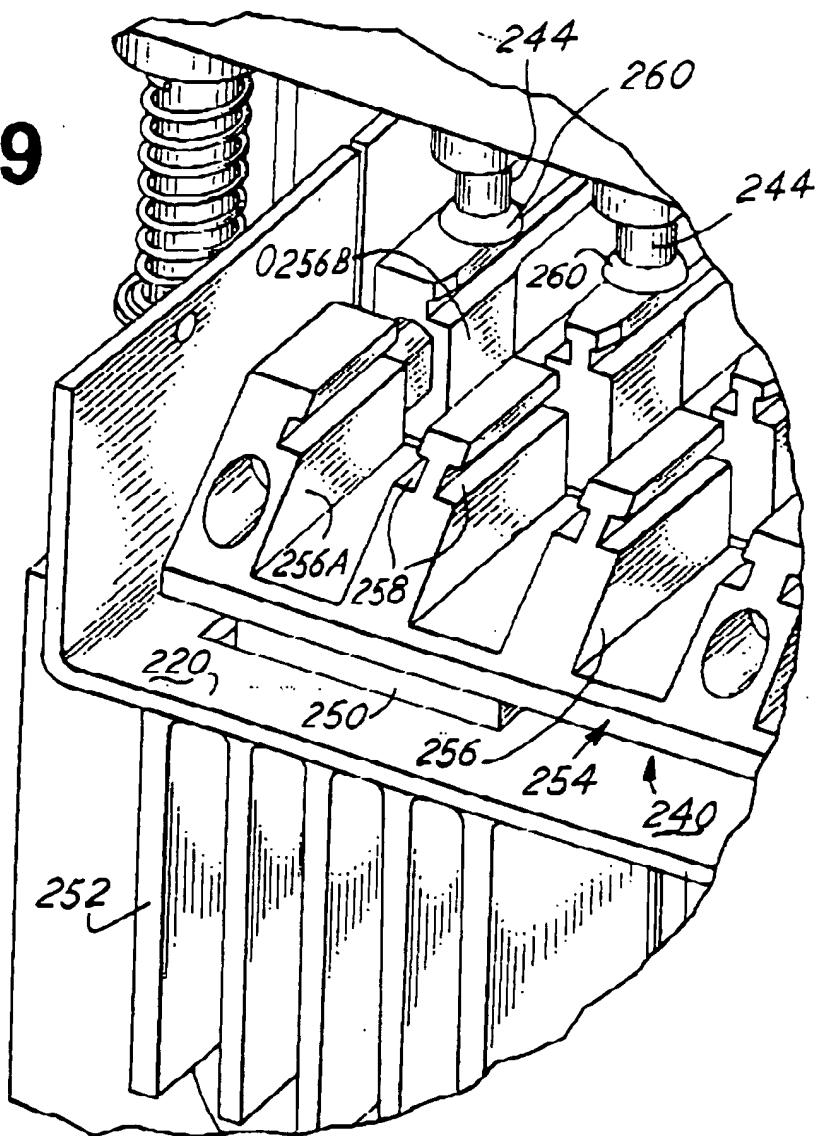


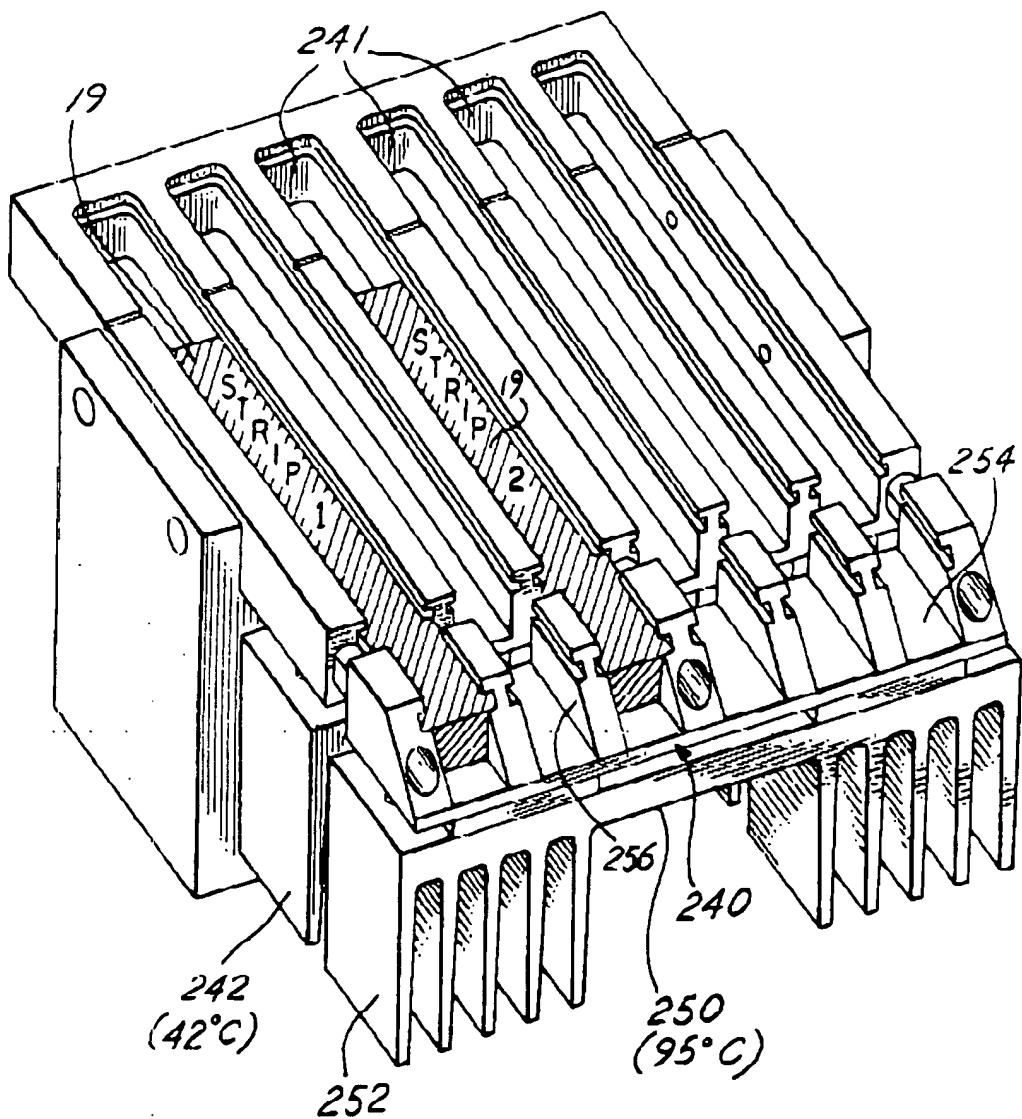
**FIG. 5**

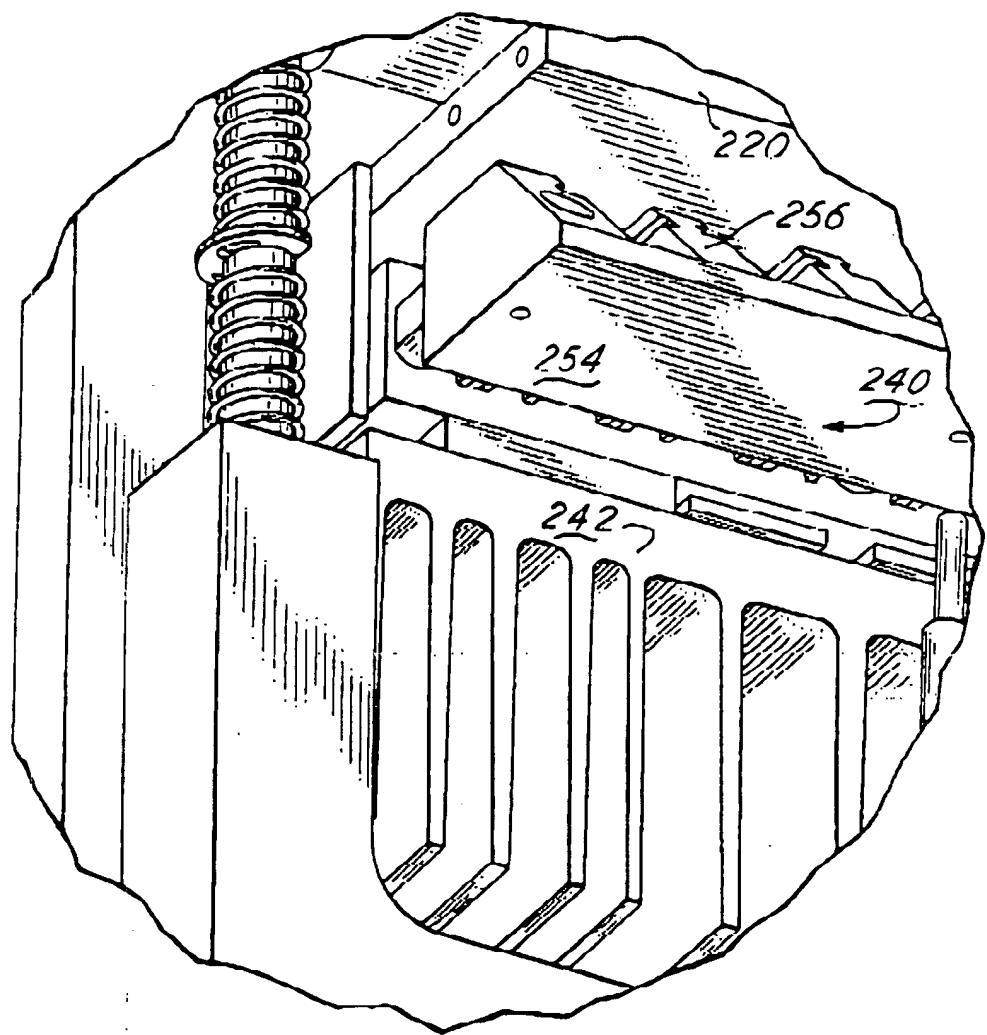
**FIG. 6**

**FIG. 7**

**FIG. 8**

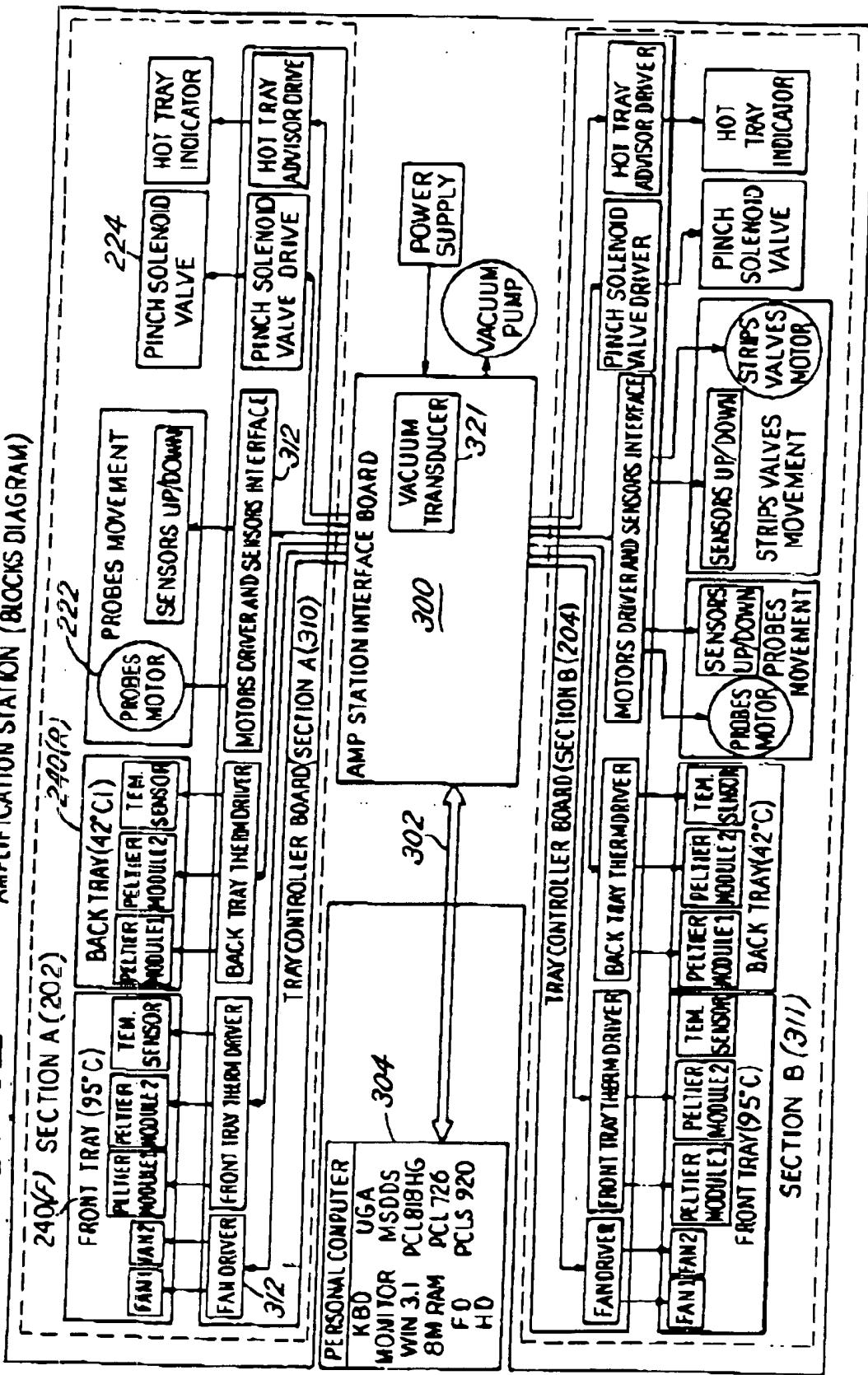
**FIG. 9**

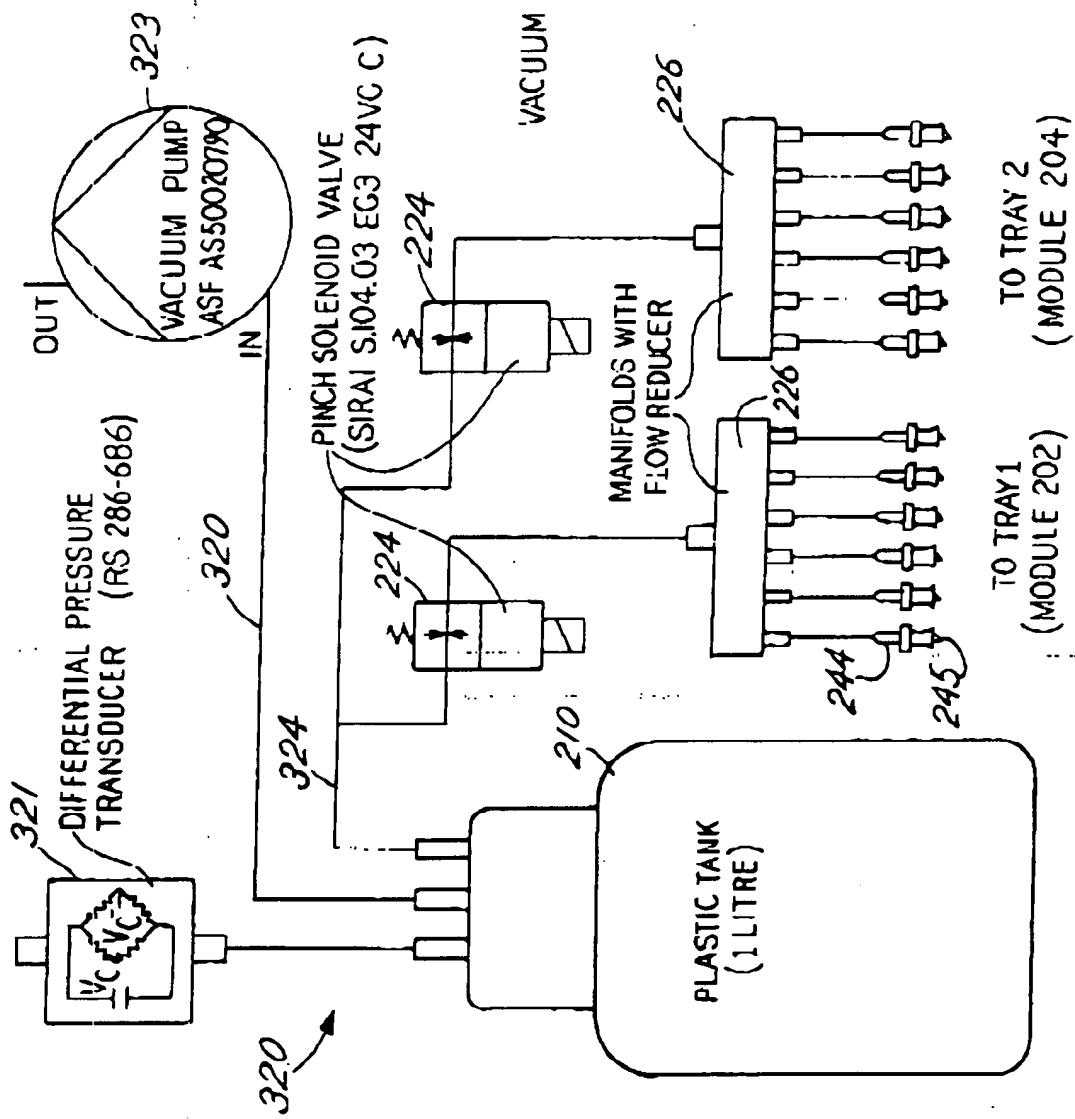
**FIG. 10**

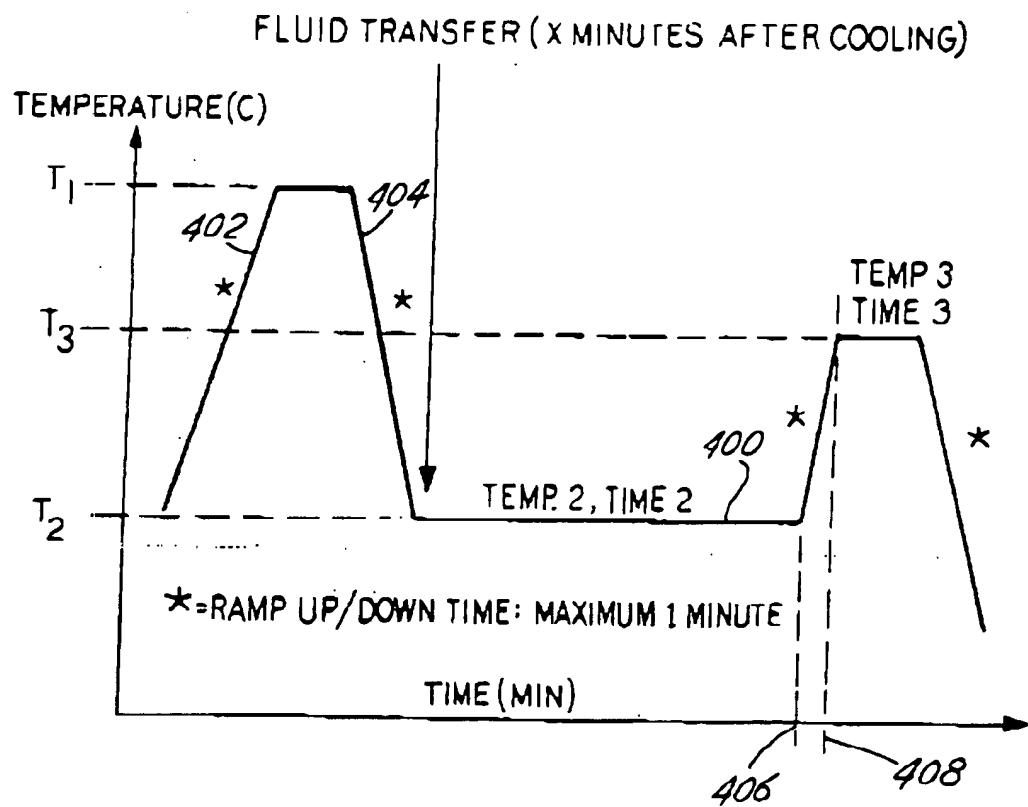
**FIG. 11**

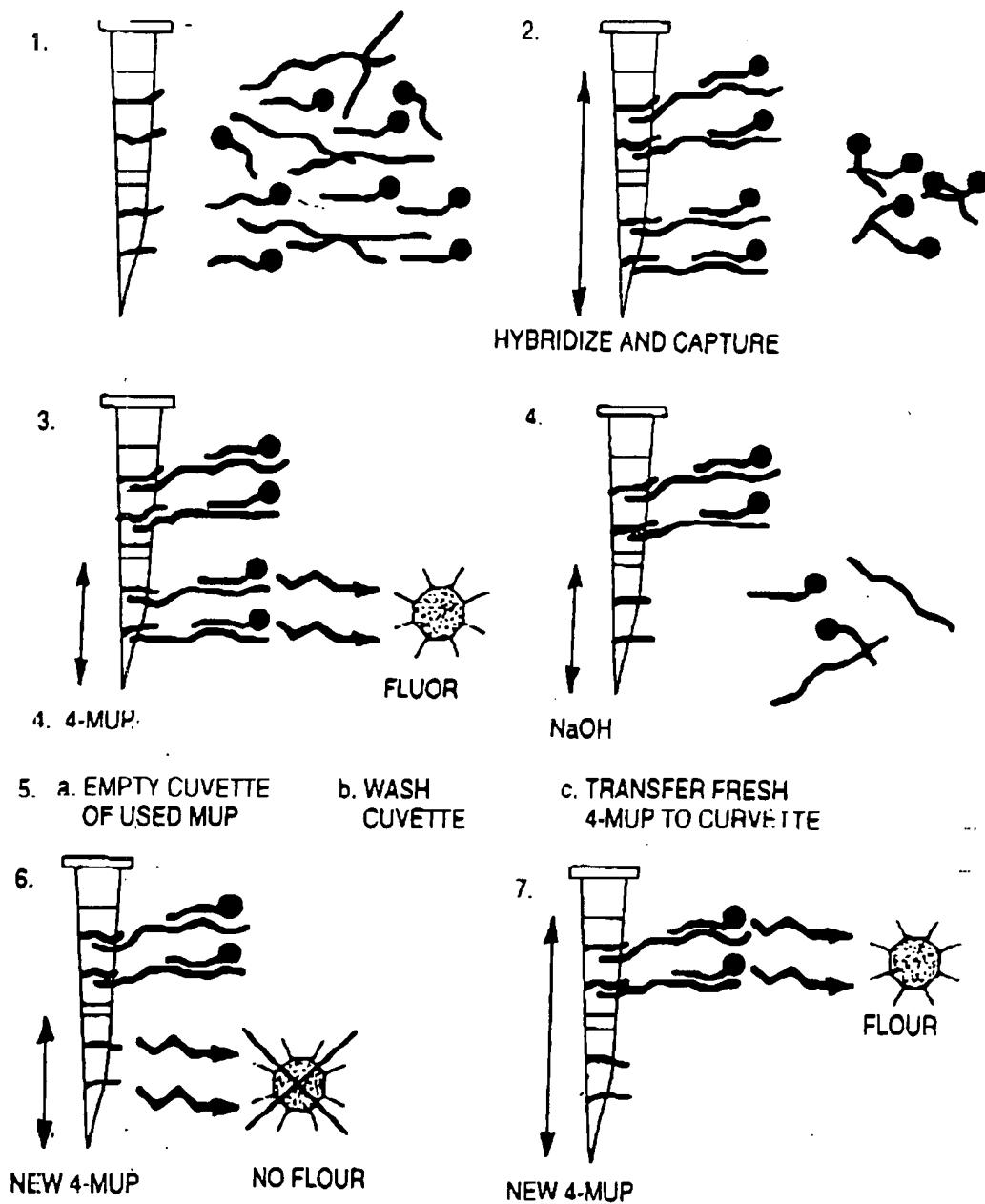
**FIG. 12**

## AMPLIFICATION STATION (BLOCKS DIAGRAM)

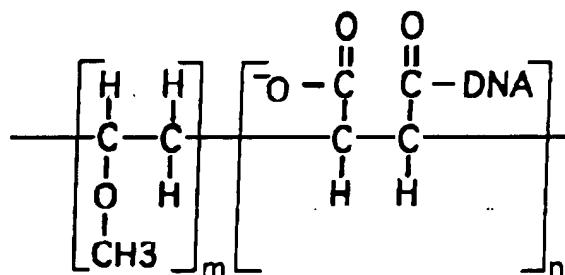
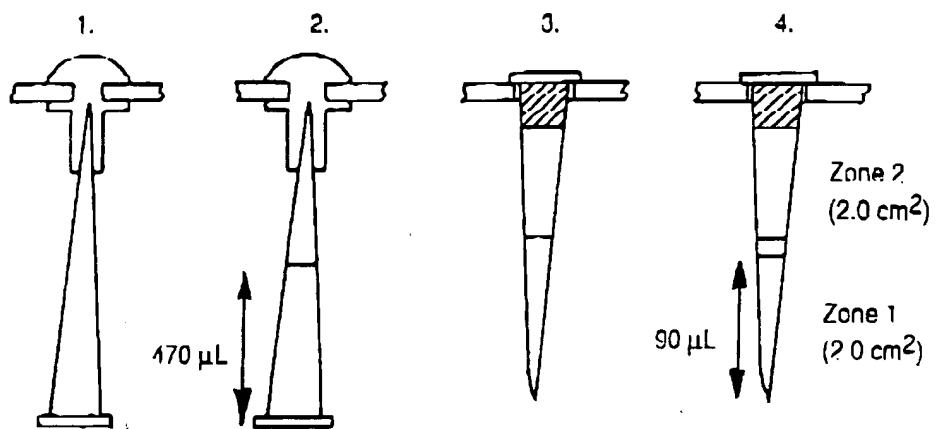


**FIG. 13**

**FIG. 14**



**FIG. 15**

**SPR PRODUCTION WITH DISTINCT CAPTURE ZONES**

CONJUGATE OF AMVE COPOLYMER  
AND SPECIFIC CAPTURE PROBE

**FIG. 16**

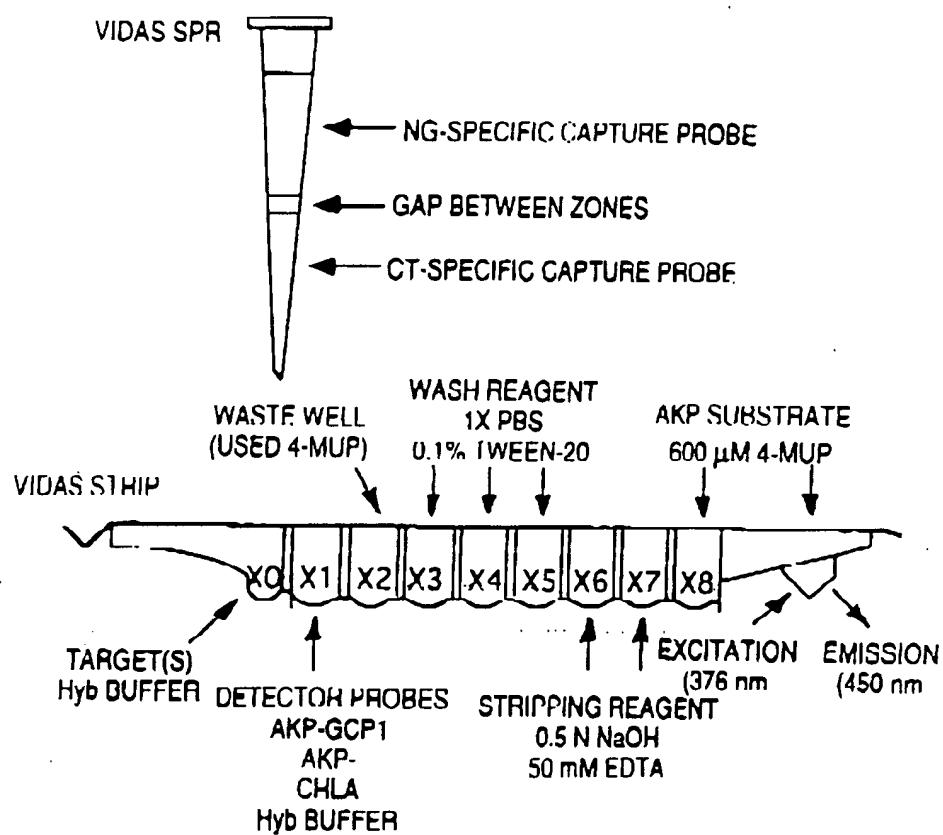
MULTIPLEX STRIP CONFIGURATION

FIG. 17

## TEST OF MULTIPLEX VIDAS PROTOCOL

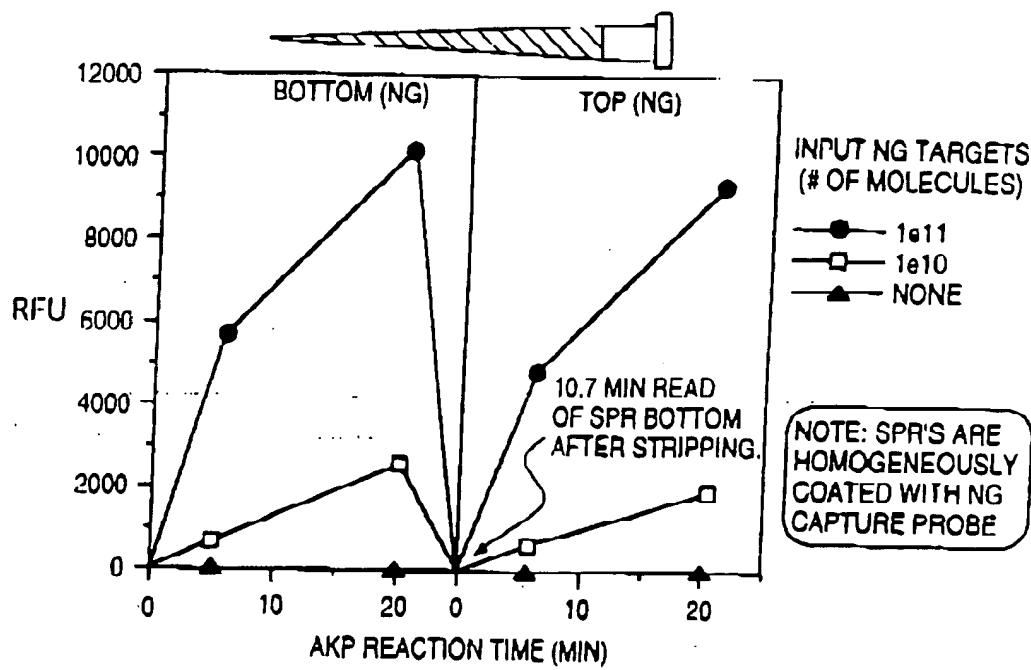
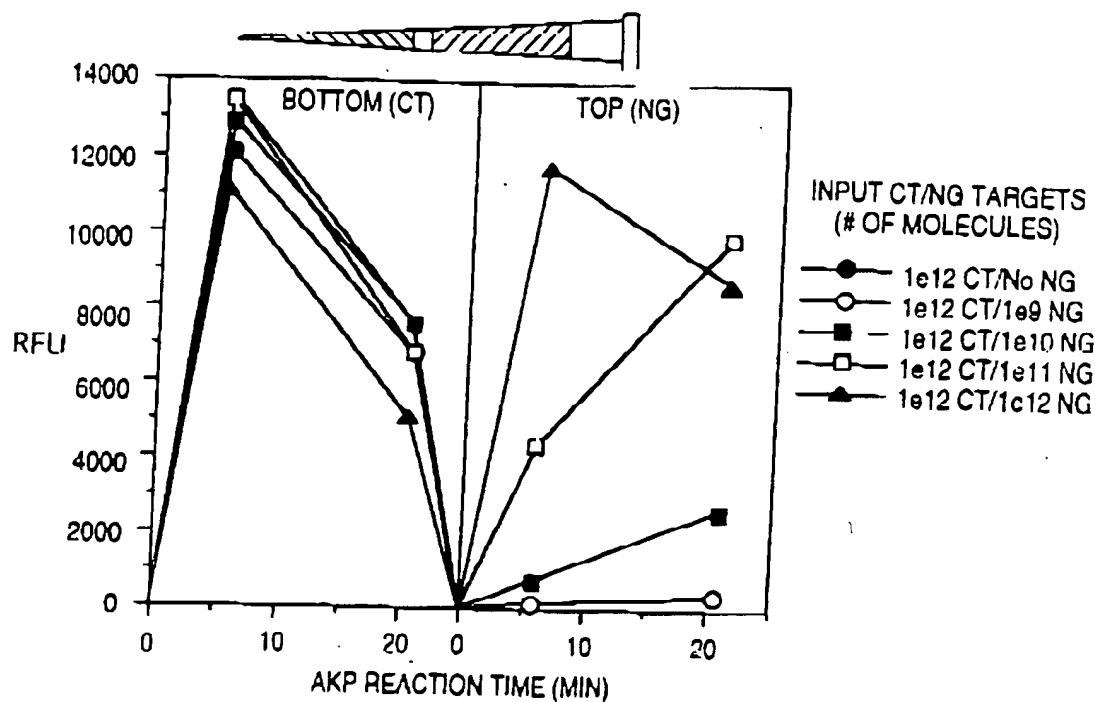
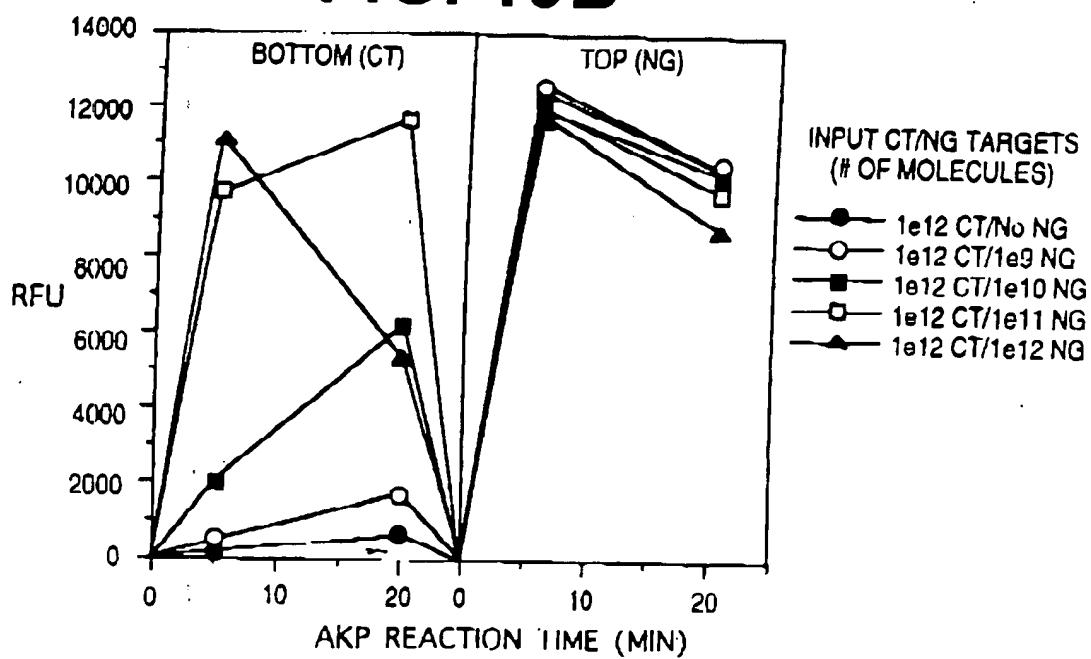


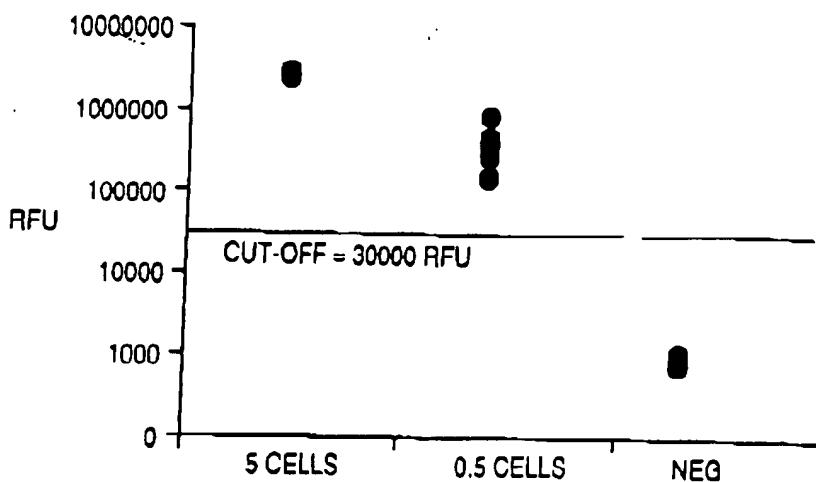
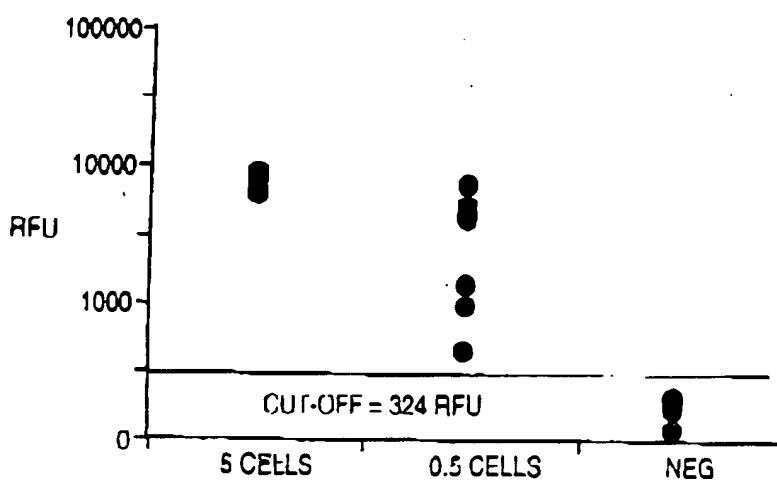
FIG. 18

**FIG. 19A**

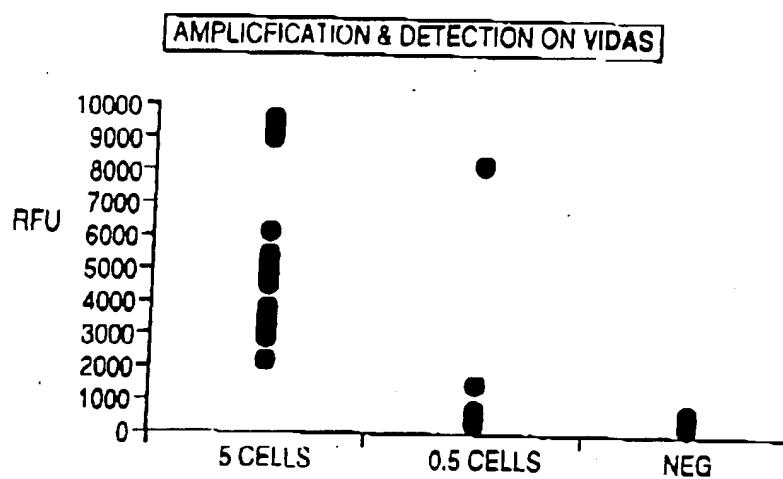


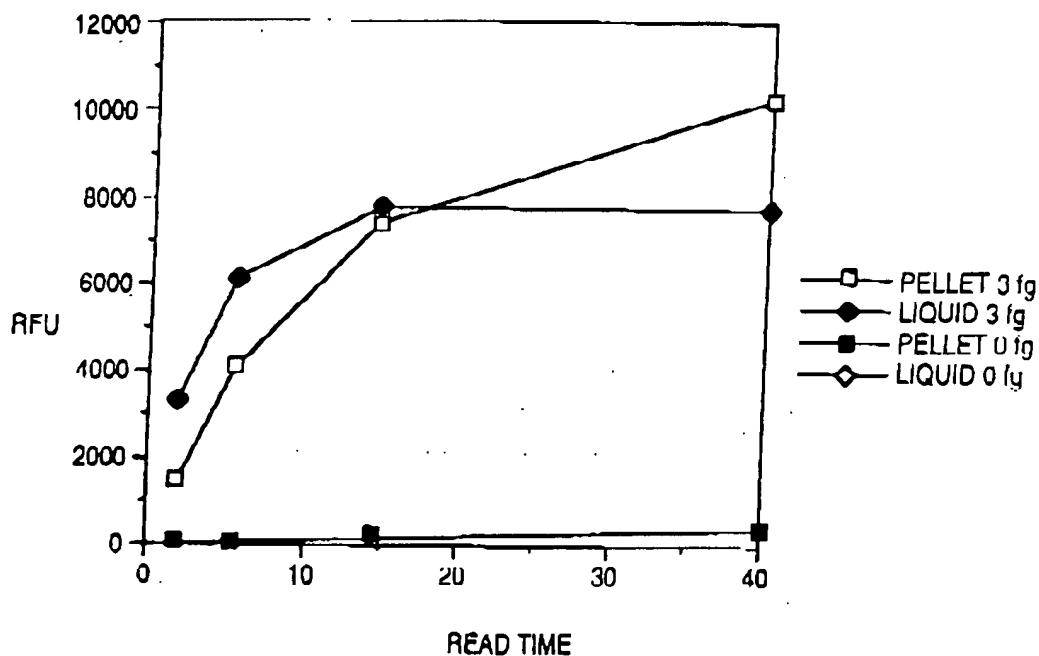
**FIG. 19B**

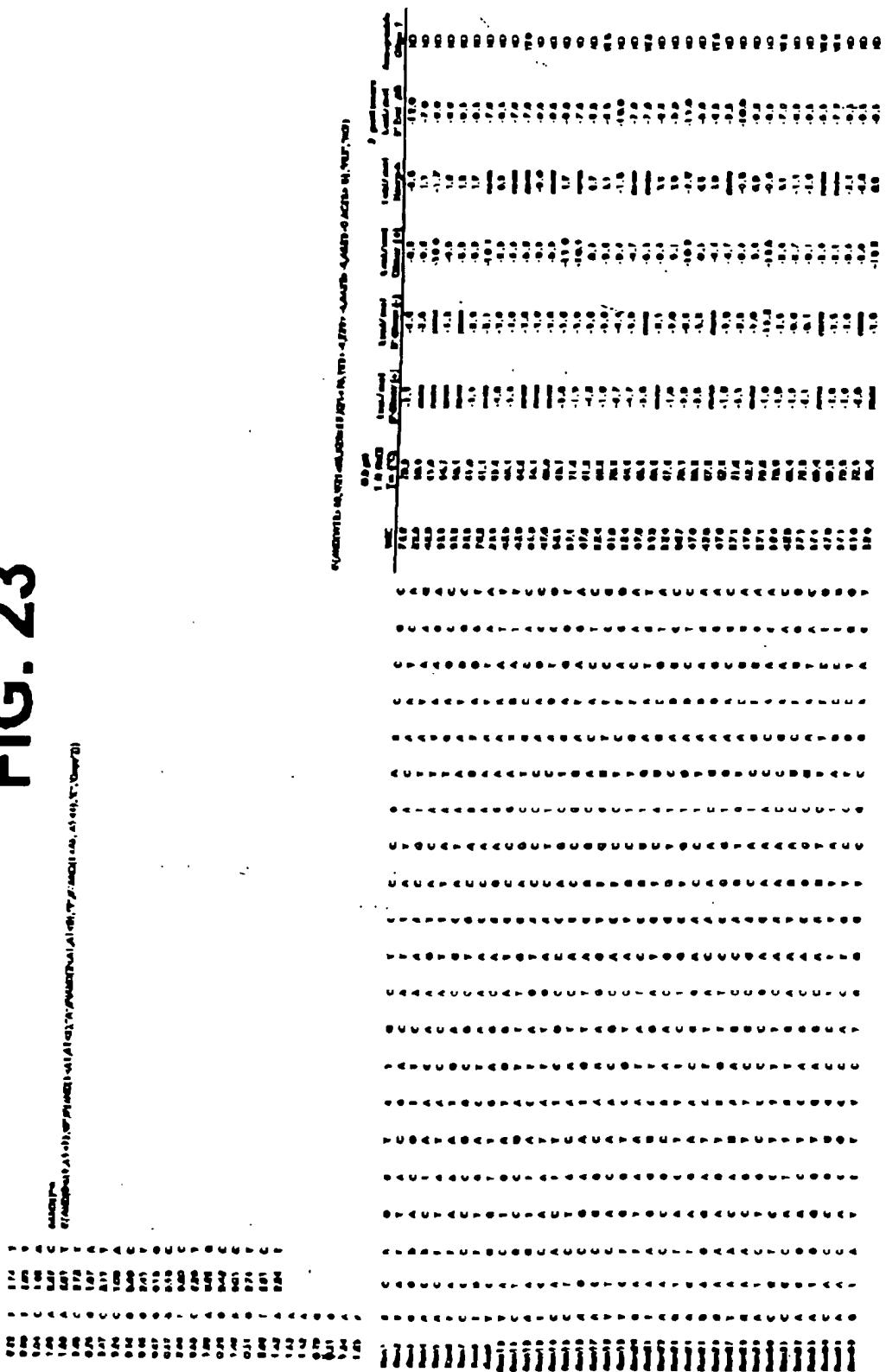


**FIG. 20A****FIG. 20B**

# FIG. 21



**BINARY: VIDAS DETECTION****BINARY: AMPLIFICATION AND DETECTION  
ON 44°C VIDAS****FIG. 22**

**FIG. 23**

Random Internal Control 1

AGGREGATIVITÄTSCÄTZUNGSMÄTTA - 5.  
(T7) promoteer / huius prius

OLICOB

BANIS TWA DE IBERI

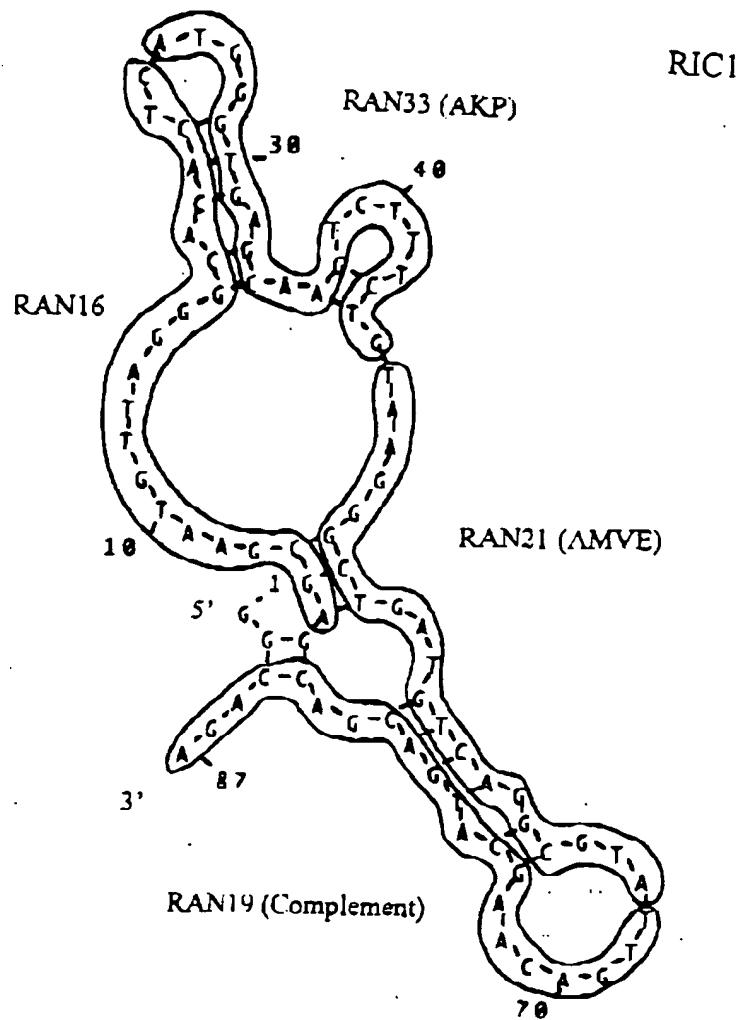
卷之三

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99T CGT CAT 9CT TGT CAA-1:

MICI etop o/ago!

**FIG. 24**

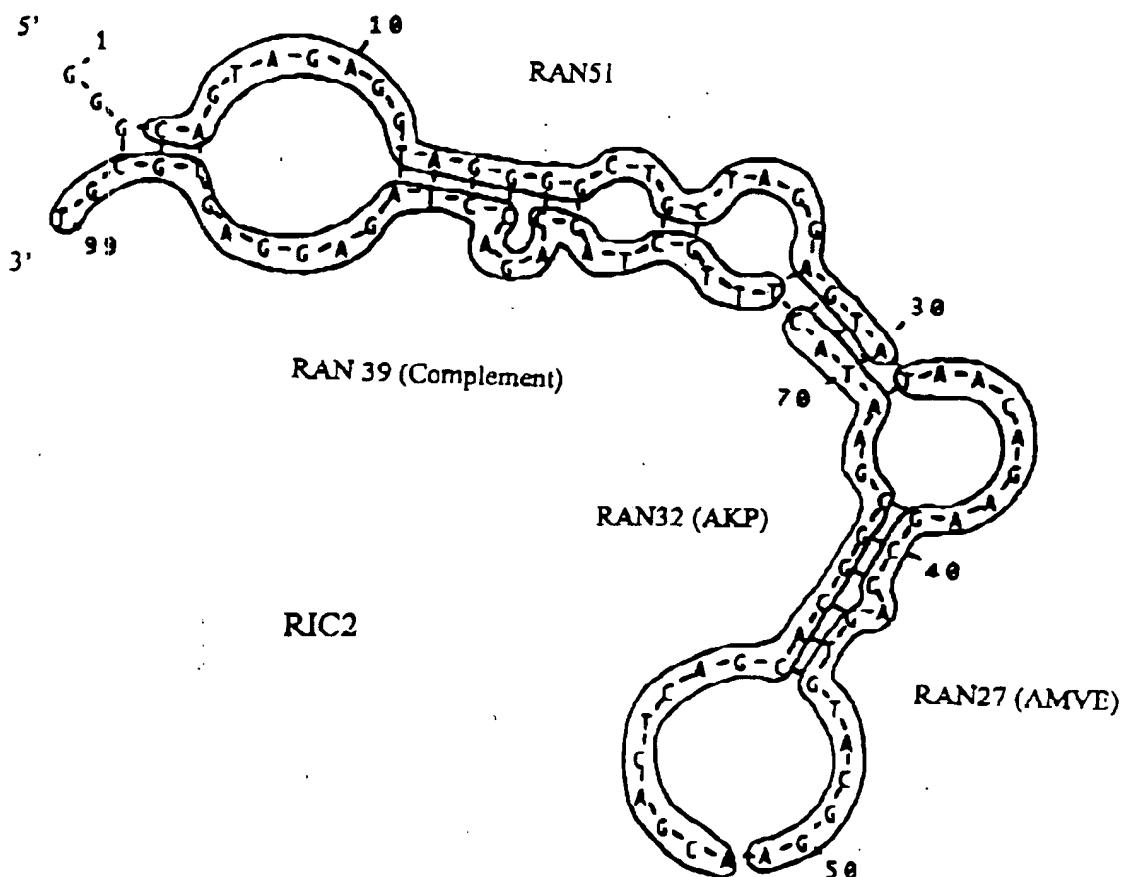


**FIG. 25**

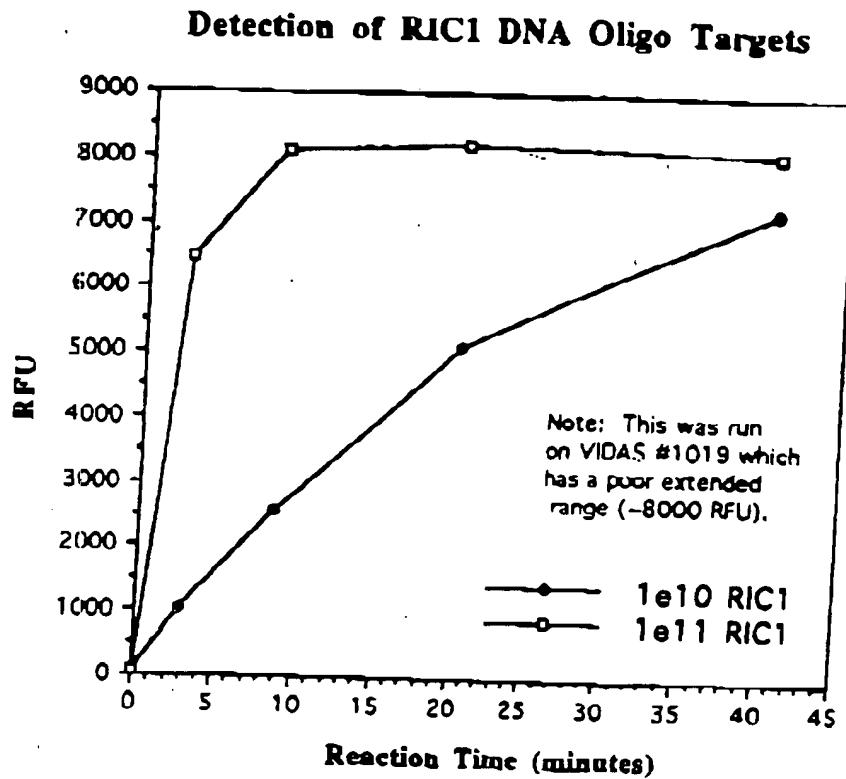
Random Internal Control 2

clilcog

**FIG. 26**



**FIG. 27**



**FIG. 28**

## AMPLIFICATION OF PURIFIED RIC1 RNA

Position	RIC1 RNA*	C7 RNA	AKP Type 6				14.6 min	40.0 min
			SPR Type	0 min	1.8 min	5.4 min		
C1	none	RIC1	S6	56	58	61	61	70
C2	"	none	RIC1	57	55	57	59	66
C3	0.1	none	RIC1	56	55	57	61	70
C4	"	none	RIC1	57	56	57	61	68
C5	1	none	RIC1	56	55	57	61	68
C6	"	none	RIC1	56	55	59	65	81
D1	10	none	RIC1	56	55	57	62	74
D2	"	none	RIC1	55	78	114	202	414
D3	100	none	RIC1	56	56	59	66	82
D4	"	none	RIC1	56	55	58	62	73
D5	1000	none	RIC1	57	57	61	70	94
D6	"	none	RIC1	56	58	81	119	227
E1	10000	none	RIC1	56	57	70	102	184
E2	"	none	RIC1	56	93	209	414	948
E3	100000	none	RIC1	56	105	246	497	1155
E4	"	none	RIC1	56	395	1474	3029	6510
E5	1000000	none	RIC1	56	596	1981	4309	7830
E6	"	none	RIC1	56	985	3597	7371	10840
				55	1062	3617	7464	10839

Amplification performed with C7 reagents, spiked with RIC1 primers (25 pmol RAN 16 and 5 pmol T7/RAN 19).  
 Each sample is an independent amplification.  
 RIC1 SPRS coated at 0.5 ng/ $\mu$ l instead of the "normal" 1.0 ng/ $\mu$ l level.

FIG. 29



PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**(Case No. 97,195-P)**

In re Application of: )  
                          )  
                          )  
Burg, et al.           )  
                          )  
Serial No.: 09/901,181   )      Examiner: TBA  
                          )  
Filed: July 9, 2001      )      Art Unit: 1656  
                          )  
For: Improved Nucleic Acid Assays   )

**REQUEST FOR CORRECTED FILING RECEIPT**

Commissioner for Patents  
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Attention: Application Processing Division  
Customer Correction Branch

Dear Sir:

1. Attached is a copy of the official filing receipt received from the PTO in the above-referenced application for which issuance of a corrected filing receipt is respectfully requested.
2. There is an error with respect to the following data, which is incorrectly entered.

**Error In:**

THIS APPLICATION IS A CON OF 09/245,939 02/05/199

**Correct Data:**

THIS APPLICATION IS A CON OF 09/245,939 02/05/199, WHICH IS A  
DIVISIONAL OF 08/850,171 FILED MAY 2, 1997, NOW ABANDONED

3. The correction is not due to any error by applicant and no fee is due.

Respectfully submitted,



Lisa M.W. Hillman  
Registration No. 43,673

Date: September 10, 2001



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
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APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/901,181	07/09/2001	1656	710	97,195-P	29	18	2

CONFIRMATION NO. 6516

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## Applicant(s)

J. Lawrence Burg, Framingham, MA;  
 Bryan W. Kluttz, Norwell, MA;  
 Luigi Catanzariti, Doxbury, MA;  
 Marcela Vera-Garcia, Framingham, MA;  
 James G. Moe, Franklin, MA;  
 Geoff A. McKinley, Doxbury, MA;

## Domestic Priority data as claimed by applicant

THIS APPLICATION IS A CON OF 09/245,939 02/05/1999, WHICH IS A DIVISIONAL  
 OF 08/850,171 FILED MAY 2, 1997, NOW ABANDONED

## Foreign Applications

If Required, Foreign Filing License Granted 08/03/2001

Projected Publication Date: To Be Determined - pending completion of Corrected Papers

Non-Publication Request: No

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Title

Nucleic acid assays

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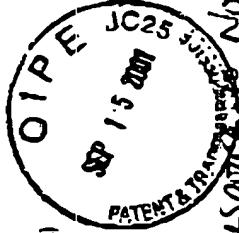
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